It is not a *Get*, if he died – מת הוא דאינו גט

Overview

The גמרא initially wanted to say that רבא derived his ruling (of אין אונס בגיטין) from the משנה, which states that if one gave a גט, with the provision that it should take effect if he does not return within twelve months, and he died within that time; it is not a גט. The גמרא explains the inference; it is not a גט if he died (within the twelve months), however if he became ill within the twelve months and did not return because of the illness, it is a valid גט; proving that אין אונס בגיטין. Our תוספות explains how this is inferred[1] from that משנה.

תוספות explains; it is not a גט if he died within the twelve months -

דאין גט לאחר מיתה[2] הא חלה הרי זה גט -

Since a גט cannot be effective **after the death** of the husband; **however** if the husband **became ill,** and he is still alive after the twelve months **it is a** valid **גט;** proving that אין אונס בגיטין **-**

דאי חלה נמי אינו גט וטעמא דהכא דאינו גט משום אונס[3] -

For if we will maintain that by **חלה it is also not a גט** (like by מת) **and the reason here why it is not a גט** (by חלה and by מת) is **because** it is an **אונס -**

אם כן לישמעינן חלה דהוי אונס מועט וכל שכן מת[4] -

If indeed it is **so,** the משנה **should have taught us** this דין of אונס בגיטין by **חלה which is a minimal אונס** (and nevertheless it prevents the גט from becoming effective), **and** we would **certainly** know that if he **died** which is a major אונס, the גט will not be effective –

תוספות responds to an anticipated difficulty:[5]

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[1] Seemingly if by חלה it is a גט, since אין אונס בגיטין, then by מת it should also be a גט (and she should be זקוקה ליבם), since he did not return within the allotted time, and אין אונס בגיטין.

[2] We assume that the גט was to become effective when the husband did not return after twelve months. At that point the husband had already died, and cannot issue a גט.

[3] We will now assume that when he said הרי"ז גיטך וכו' מכאן ועד י"ב חודש, he meant that the גט should become effective retroactively from the day he gave it, so there is no concern of גט לאחר מיתה, and the reason the גט is not effective is because his not returning was an אונס (and יש אונס בגיטין) and it applies equally to חלה and to מת.

[4] However since the משנה did not sate its case by חלה, but rather by מת, this indicates that the גט is not effective only on account of אין גט לאחר מיתה, but not because of אונס, since אין אונס בגיטין. See 'Thinking it over'# 1.

[5] Perhaps the reason why it is not a גט is because יש אונס בגיטין (see footnote # 3), and the reason he did not mention חלה, is because if the משנה would just state that by חלה it is not a גט (because יש אונס בגיטין), I would not be able to derive that by מת it is not a גט, because by מת (as opposed to חלה) he wants the גט to become effective (retroactively) so she will not have to go through the יבום process (which does not apply to חלה).

דהשתא אכתי לא אסיק אדעתיה דבמת איכא למימר ניחא ליה[6] דלא תפול קמי יבם:
For as of now it did not as of yet enter the mind of the גמרא the idea **that by מת it is possible to say that he prefers** that the גט be effective, in order **that she should endure the יבום** process. Therefore there is no other reason why it should not be a גט by מת if it is not a גט by חלה (on account of יש אונס בגיטין).

Summary

It is not a גט by מת because אין גט לאחר מיתה. At this point the גמרא was unaware of the idea that ניחא ליה דלא תפול קמי יבם.

Thinking it over

1. Seemingly almost the entire תוספות (until דהשתא אכתי וכו') is a repetition of פרש"י;[7] why is תוספות repeating it?

2. It seems according to תוספות that the only way we can infer from this משנה that אין אונס בגיטין is if we assume that דהשתא לא אסיק אדעתיה וכו'.[8] However, why cannot we say that it was אסיק אדעתיה that ניחא ליה וכו', and nevertheless we can derive from this משנה that אין אונס בגיטין, for otherwise (if יש אונס בגיטין) why does not the משנה mention that it is not a גט by חלה as well. We cannot derive חלה from מת, for even if we are discussing a case of מעכשיו (where there is no problem of אין גט לאחר מיתה), I would think that only by מת it is not a גט, because it is an אונס גמור, but not by חלה which is an אונס מועט. We certainly cannot derive חלה from גט if we are discussing where the גט is חל after יב חודש, for then by מת it is no גט because אין גט לאחר מיתה. In short we can know that אין אונס בגיטין, because if יש אונס בגיטין, the משנה should have taught us the דין that by חלה it is not a גט!

[6] This idea is first entertained later on this עמוד, but not as of yet. See 'Thinking it over' # 2.
[7] See רש"י ד"ה מת הא' והב'.
[8] See footnote # 6.